

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JULIO ISLEY SMITH,

Plaintiff,

-against-

9:06-CV-505
(LEK/GJD)

GARY GREENE, Superintendent, et. al.,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on December, 26, 2007, by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 32).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge DiBianco's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 32) is **APPROVED** and **ADOPTED** with respect to its final determinations of Defendants; and it is further

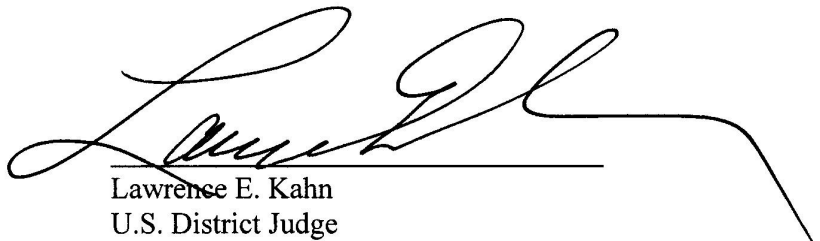
ORDERED, that Defendant's Motion to dismiss (Dkt. No. 22) is **GRANTED** with respect to Defendants Levine and Kelly; and it is further

ORDERED, that Defendant's motion to dismiss (Dkt. No. 22) is **DENIED** as to Defendant Greene; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 24, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge